IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

THE HON'BLE MR JUSTICE N.V. RAMANA

WRIT PETITION NO : 21741 of 2006

DATED: 04.12.2006

Between:

Smt. M.Vijaya Lakshmi petitioner

And

The State Bank of India,
PPF & G Department,
Local Head Office,
Bank Street, Hyderabad
Rep by its Chief General Manager & another Respondents

THE HON'BLE SRI JUSTICE N.V. RAMANA

W.P. No. 21741 of 2002

Oral order:

The petitioner, widow of one late M.V. Ramanadham, who worked with the respondents, namely State Bank of India, as Head Cashier, filed the present writ petition praying for the following relief:

"… declaring the action of the respondent bank in refusing payment of interest on the inordinately delayed payment of arrears of salary and other amounts due to late M.V.Ramanandam for the period from 30.6.1972 to 19.8.1986 and also thereafter and actually paid on 22.12.1992 as communicated in the letter of the Bank dated 15.11.2001, 12.2.2002 and 13.9.2002 as illegal, arbitrary and opposed to the principles of the natural justice and also to the principles of commercial banking concept and consequently directing the respondents to pay interest @ 13% on the amount of Rs.3,56,000/- from 20.8.1986 to 20.12.1992 and thereafter on the balance as interest till the date of filing of the writ petition and grant such other relief or reliefs.

The petitioner's husband while working with the respondents-Bank as Head Clerk, was placed under suspension, pending enquiry, in the year 1970. Disciplinary proceedings initiated against him, ended in his dismissal from service in the year 1977. Questioning the order of dismissal, the petitioner's husband filed writ petition in W.P. No. 7147 of 1981, and while the said writ petition was pending, he died in the year 1986. The writ petition, by order
dated 24.3.1987, was allowed by this Court. Though the respondents-Bank preferred appeal against the order in the writ petition in W.A. No. 1533 of 1987, the same, however, was dismissed as withdrawn by a Division Bench of this Court, vide its orders dated 7.4.1992.

Pursuant to the withdrawal of the writ appeal, the respondents-Bank in terms of the order in the writ petition, paid the petitioner all the retrial benefits of her late husband. Having received all the retrial benefits, the petitioner now filed the present writ petition *inter alia* contending that since the respondents-Bank had paid the retrial benefits of her late husband belatedly, she is entitled to interest on the delayed payment, and the respondents-Bank made use of the retrial benefits of her husband for commercial purposes and earned profits

therefrom.

Respondent Nos. 1 and 2-Bank filed a detailed counter denying the allegations made by the petitioner in the affidavit filed in support of the writ petition, and *inter alia* contending that as against the orders dated 24.03.1987, passed by this Court allowing the writ petition in W.P. No. 7141 of 1981, filed by the petitioner's husband, the respondents-Bank preferred an appeal in W.A.
No. 1533 of 1987, but the respondents-Bank on compassionate grounds withdrew the writ appeal, which was dismissed as withdrawn by a Division Bench of this Court on 07.04.1992. The respondents having withdrawn the writ appeal, paid the petitioner all the retrial benefits of her late husband. However, considering the weak financial position of the petitioner, the respondents-Bank also provided employment to one of the dependants of the deceased, namely his daughter by name Smt. N. Phani Rajeswari on compassionate grounds on 20.7.1994.

The petitioner having received the retrial benefits of her late husband and have taken a job for her daughter, made representations to the respondents-Bank claiming that she is entitled to interest on the delayed payment of retrial benefits. The respondents-Bank having examined the matter, rejected the claim of the petitioner for interest on delayed payment, and also communicated the result thereof to the petitioner vide letters dated 15.11.2001 and 12.2.2002. There is no delay in making payment of the retrial benefits of her late husband to the petitioner. It is stated that immediately after withdrawal of the writ appeal, the respondents-Bank paid the petitioner all the retrial benefits of her late husband, including, bonus and salary for the period from the date of his till the date of his death, treating as if he was in service.
The respondent-Bank have well protected the interest of the petitioner, in that they not only paid all the retrial benefits of her late husband, but also provide compassionate employment to his daughter. It is contended that since the petitioner is disputing certain calculations, her remedy is to approach the competent civil Court and file suit, and she cannot maintain the writ petition.

The petitioner filed reply reiterating the stand taken by her in the writ petition. She stated that compassionate appointment was provided to her daughter in terms of the scheme and on par with other similarly situated persons, and as such, the respondents-Bank cannot contend that they have been compassionate to her. The petitioner is a

chronic diabetic patient, her kidneys became defunct and she is on dialysis, and requires medical expenses etc., and as the respondents-Bank have not paid the retrial benefits in time, she is entitled to claim interest on the delayed payment, which would help her meet the medical expenses.

Heard the learned counsel for the petitioner and the learned Standing Counsel for the respondents-Bank.

The petitioner's husband, while working as Head Cashier, was admittedly, dismissed from service on certain allegations. Assailing the order of dismissal, the petitioner's husband filed writ petition in W.P. No. 7147 of 1981, and during the pendency of the said writ petition, the petitioner's husband died. The writ petition, after his death, was allowed by order dated 24.08.1997, of a learned single Judge of this Court. Impugning the said order, the respondents-Bank filed appeal in W.A. No. 1533 of 1987, and a Division Bench of this Court though stayed the operation of the order in the writ petition, but subsequently on the representation made by the respondents-bank, vide its order dated 07.04.1992, dismissed the writ appeal as withdrawn. The respondents-Bank having withdrawn the writ appeal, implemented the order of the learned single Judge in the writ petition, which quashed the order of dismissal of the petitioner's husband from service, and paid the petitioner all the retrial benefits of her late husband and also provided a job to the petitioner's daughter on compassionate grounds.

Though the petitioner's husband died in the year 1986, the fact remains, the writ petition filed by him assailing the order of his dismissal from service, was allowed on 24.03.1987. Assailing the said order, the respondents-Bank filed writ appeal, and a Division Bench of this Court though stayed the operation of the order in the writ petition, the fact remains, the respondents-Bank with a view to provide compassionate employment to one of the family members of the petitioner, withdrew the appeal, and accordingly the appeal was dismissed as withdrawn on 22.06.1992. Since the respondents-Bank withdrew the appeal, the monetary benefits flowing from the order of the learned single Judge in the writ petition, became due and payable from 22.06.1992. It is the case of the respondents-Bank that immediately after withdrawing the writ appeal, they paid all the benefits like salary and bonus, leave salary to the widow/legal heir (petitioner) of the deceased employee from the date of his suspension to the date

of his death treating as if he died in service, the details of which are as under.

Sl no.	Description	Amount in Rs.
1	Salary & allowances from 30.6.72 to 19.8.86 (date of death)	3,00,000-00
2	Leave salary for 180 days	22,648-00
3	Bonus & interest	34,328-00
4	Provident fund with interest upto 30.9.95	68,657-55
5	Further interest of PF from 1.10.95 to the actual date of payment i.e. 20.6.1996	6,410-00
6	Portion of member contribution of PF erroneously omitted by the bank and paid with interest thereon upto 13.11.2001	35,193-00
7	Gratuity	38,321-35
8	Interest on gratuity from 20.8.86 to 4.1.96 i.e. actual date of payment	35,454-95
	Total	5,41,014-09

Apart from paying the above said amounts, the respondent-Bank also provided compassionate appointment to the daughter of the petitioner on 20.07.1994. The petitioner having received the monetary benefits of her late husband and a job to her daughter, has filed the present writ petition.

The acts of the respondents-Bank in withdrawing the writ appeal preferred by them against the order of a learned single Judge of this Court allowing the writ petition filed by the petitioner's husband, and later paying the monetary benefits in terms of the order of the learned single Judge and providing employment on compassionate grounds to daughter of the petitioner, shows that the respondents-Bank was compassionate to the petitioner.

The petitioner having received the monetary benefits of her late husband from the respondents-Bank and a compassionate appointment to her daughter, now cannot contend that she is entitled to claim interest on delayed payment on the ground that the respondents-Bank made use of the monies, which were due and payable to her late husband, and if such argument is allowed to be canvassed, it would

amount to showing undue indulgence to the petitioner.

At this stage, the learned counsel for petitioner sought permission to approach the Civil Court for adjudication of his claim with regard to interest on delayed payment. If such a remedy is available, the petitioner is at liberty to do so.

The writ petition is devoid of merit, and the same is accordingly dismissed. No costs.

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N.V.RAMANA,J

DATE: 4.12.2006
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THE HON'BLE MR JUSTICE N.V. RAMANA

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